CF0000058811

(2)

Division Bench (Criminal)

IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

CRIMMINAL APPEAL NO. 980 OF 1993

APPELIANT: Thunnu Ram son of Sukru Korva, aged 30 years, resident of Kulda Lodam, P.S.Jashpurnagar, District Raigarh.

Vs.

RESPONDENT: State of Madhya Pradesh through P.S. Jashpurnagar

APPEAL UNDER SECTION 374(2) Cr.P.C.

XI-HC-78

(17)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...Cr.A.No.960/93..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH:
HON'BLE MR. L.C. BHADOO &
HON'BLE MR.DHIRENDRA MISHRA, JJ

18.01.2006

Shri Abhay Tiwari, Advocate for the appellant.

Shri U.N.S. Deo, Additional Public Prosecutor with Shri Alok Bakshi, Government Advocate for the State.

Oral judgment dictated on *Dais.*

PER L.C. BHADOO, J.

By this appeal under Section 374 (2) of the Cr.P.C. accused/appellant Thunnuram has questioned the legality of judgment of conviction and order of sentence dated 10.7.1993 passed by learned Additional Sessions Judge, Jashpurnagar in Sessions Trial No.133/92 whereby learned Additional Sessions Judge after holding the accused/appellant guilty for commission of murder of Rainu Singh convicted him under Section 302 of the Indian Penal Code and sentenced him to undergo imprisonment for life.

The prosecution case, in brief, is that on 9.5.1992 when deceased Rainu Singh was cultivating his land the accused/appellant herein came with an axe and started attacking Rainu Singh, he assaulted Rainu Singh repeatedly, as a result of which the neck of Rainu Singh was cut and he fell down on the ground and died spontaneously. The incident was

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आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	witnessed by Birsuram (PW-3). Thereafter, the accused/appellant went to the Village Kotwar Birsai (PW-1) and made extrajudicial confession that he has murdered Rainu Singh. On hearing this, Birsai (PW-1) took the accused/appellant before the Panchas and in presence of Panchas the accused/appellant again made extrajudicial confession regarding murder of Rainu Singh. Upon which Birsai lodged the report Ex.P-1 in the Police Station Jashpurnagar. After registering the case the Investigating Officer left for the scene of occurrence, prepared the Panchanama (Ex.P-3) after giving notice to the Panchas, sent the body for postmortem examination to the Primary Health Centre, Jashpurnagar where PW-7 Dr. S.K. Shrivastava conducted the postmortem on the body of deceased Rainu Singh and prepared the postmortem report Ex.P-6. As per postmortem report, deceased Rainu Singh received seven injuries. The Investigating Officer took into possession the blood stained soil and plain soil from the place of occurrence under Ex.P-6. He also took into possession one axe stained with blood under Ex.P-5. After completion of investigation, charge sheet was filed in the Court of Judicial Magistrate First Class, Jashpurnagar, who in turn committed the case to learned Sessions Judge, Raipur from where learned Additional Sessions Judge, Jashpurnagar received the case on transfer for trial.	

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

The prosecution in order to prove the charge against the accused/appellant examined seven witnesses. Statement of accused/appellant was recorded by learned Additional Sessions Judge under Section 313 of the Cr.P.C. in which he denied the prosecution evidence and stated that he is innocent and has been falsely implicated in the crime. Learned Additional Sessions Judge after hearing learned Additional Public Prosecutor & counsel for the accused convicted and sentenced the accused in the manner as mentioned in Para-1 of this judgment.

We have heard Shri Abhay Tiwari, learned counsel for the accused/appellant and Shri Deo, Addl. Public Prosecutor with Shri Bakshi, Government Advocate for the State/respondent and perused the record.

The homicidal death of Rainu Singh is not in dispute. As far as the involvement of accused/appellant in the crime in question is concerned, PW-3, Birsuram, who is the eyewitness to the incident, has stated in his evidence that on the fateful day he saw that the accused/appellant assaulted Rainu Singh with an axe as a result of which Rainu Singh died spontaneously. PW-1 Birsai & PW-2, Ganshuram have stated that the accused/appellant came to them and made extrajudicial confession that he has committed murder of Rainu Singh.

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — ५ —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	As per evidence of these witnesses extrajudicial confession made by accused/appellant was voluntary, true and prompt. Therefore, in view of the evidence of PW-3 Birsuram, eyewitness to the incident and PW-1,Birsai & PW-2 Ganshuram before whom the accused/appellant has made extrajudicial confession, we are of the considered opinion that there is no illegality or infirmity in the finding of the trial court and the accused/appellant has been rightly convicted for commission of murder of Rainu Singh. In the result, the appeal is liable to be dismissed being devoid of merit and same is dismissed. Sd/- L.C. BHADOO Judge Sd/- DHIRENDRA MISHRA Judge	

Roshan/-